

REMARKS/ARGUMENTS

A Request for Continued Examination (RCE) is submitted herewith.

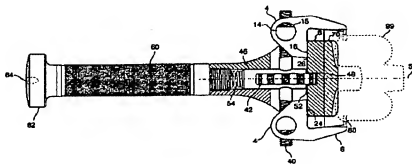
The present Amendment is in response to the Office Action mailed September 17, 2007. Claims 1-20 were rejected in the Action. Claims 1 and 12 have been amended herein to further clarify the present invention. Therefore, claims 1-20 remain pending in the present application. Support for all claim amendments can be found in Applicants' originally specification in at least paragraphs [0112]-[0125]. As such, no new matter has been added. Applicants set forth remarks relating to the Office Action below.

In the present Action, the Examiner rejected claims 1-3 and 5-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,732,992 to Mauldin ("Mauldin"). The Examiner asserted that *Mauldin* includes a shaft distal end having forward surfaces (Fig. 1A, surfaces of the device which engage ref. 99) for engagement with corresponding confronting surfaces of at least one of the baseplates (Fig. 3, surfaces of ref. 99 shown engaging the device) for axial rotationally aligning the at least one of the baseplates with respect to the longitudinal axis.

Applicants respectfully assert that amended independent claim 1 is unanticipated by *Mauldin* because the cited reference does not disclose or suggest an apparatus for manipulating an orthopedic device having first and second baseplates, the apparatus including at least one shaft having a longitudinal axis and a shaft distal end . . . , "the shaft distal end further having forward surfaces for engagement with corresponding confronting surfaces of at least one of the baseplates for axial rotationally aligning the at least one of the baseplates with respect to the longitudinal axis in at least two of

a plurality of possible axial rotationally aligned positions, wherein each of such possible axial rotationally aligned positions aligns the longitudinal axis of the shaft with respect to a respective one of the corresponding confronting surfaces."

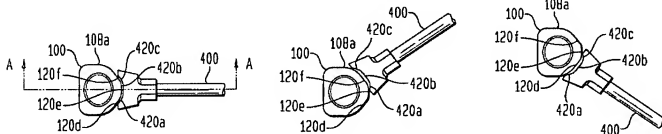
Referring to Fig. 3 (reprinted below) of *Mauldin*, a medical appliance tool providing one hand actuation is shown. In this tool, a component is secured to the tool by being placed against removable capture plate 70 and then grasped by fingers 10 of jaw arm 8. In the embodiment shown in Fig. 3, capture plate 70 having sloped and cupped impaction surfaces 72.



*Mauldin* discloses that by using removable capture plates of appropriate shapes, the same tool can be easily altered to accommodate different component geometries. See col.6, 11.55-57. However, *Mauldin* does not teach or suggest the ability of the tool to axial rotationally align at least one of the baseplates with respect to the longitudinal axis "in at least two of a plurality of possible axial rotationally aligned positions" as required by amended claim 1. Further, *Mauldin* does not teach or suggest "wherein each of such possible axial rotationally aligned positions aligns the longitudinal axis of the shaft with respect to a respective one of the corresponding surfaces" as required by amended claim 1. *Mauldin* discloses or suggests only geometries of capture plate 70 (forward surface) and implant 99 (confronting surface) that allow for axial rotationally aligning the implant with respect to the longitudinal axis of the shaft in one position. More to this point, the tool in *Mauldin* can attach to a given

implant with the longitudinal axis of the shaft axially rotationally aligned in only one direction with respect to the implant.

In contrast, amended claim 1 of the present invention includes the recitation that the "shaft distal end further having forward surfaces for engagement with corresponding confronting surfaces of at least one of the baseplates for axial rotationally aligning the at least one of the baseplates with respect to the longitudinal axis in at least two of a plurality of possible axial rotationally aligned positions." The forward surfaces of the shaft distal end and the confronting surface of the baseplates in the present invention allow for at least two of a plurality of axial rotationally aligned positions to align the longitudinal axis of the shaft with respect to a respective one of the corresponding surfaces as shown in Figs. 4f, 4i, and 4j of the present application (reprinted below).



For the foregoing reasons, amended independent claim 1 is unanticipated by *Mauldin* and is otherwise allowable. Claims 2-11 are unanticipated, *inter alia*, by virtue of their dependence from claim 1, which is unanticipated for the reasons set forth above.

The Examiner also rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Mauldin*. In response, Applicants assert that claim 4 is patentable over *Mauldin*, *inter alia*, by virtue of its dependence from claim 1, which is patentable for the reasons set forth above.

Applicants respectfully assert that independent claim 12 is also unanticipated by *Mauldin* because the cited reference does not teach or suggest an apparatus for holding an orthopedic device including "a shaft having a distal end and a longitudinal axis, an extendible and retractable holding pin located internal to at least a portion of the shaft distal end, and a spring coupled to the holding pin and located internal to at least a portion of the shaft and biasing the pin toward retraction along a direction parallel to the longitudinal axis of the shaft."

Clearly *Mauldin* does not teach or suggest a pin that is biased toward retraction along a direction parallel to the longitudinal axis of the shaft. Applicant would like to point the Examiner to col.4, 11.3-28 of *Mauldin* which states:

"In operation, a component is placed against the impact surface 22 of the impact base. *The jaw is moved laterally until the finger 10 comes into contact with, and is resisted by, the component 20 (represented functionally for clarity).* During this lateral motion, the lever arm remains in contact and slides against the slide surface 16. The lever arm contacts the slide surface along a flat contact surface 24 in this configuration. After contact with the component, simple lateral motion of the jaw is restrained. Continued lateral motion of the pivot post 14 must come from rotation of the jaw about the finger/component contact. However, the lever arm cannot simply rotate about this point because of the impact base interference. The result of continued lateral motion induced by the retraction means is an orthogonal motion of the jaw as it is levered from the impact base by the lever arm (FIG. 1b). The finger is coincidentally drawn to the impact base, and with it the component. The relative displacement 28 of the finger is essentially orthogonal to the retracting motion as shown in FIG. 1ba." (emphasis added).

There is no teaching or suggestion anywhere in the specification of *Mauldin* that the jaw arm 8 or finder 10 is biased toward retraction along a direction parallel to the longitudinal axis of the shaft as required by amended

independent claim 12. For the foregoing reasons, amended independent claim 12 is unanticipated by *Mauldin* and is otherwise allowable. Claims 13-19 are unanticipated, *inter alia*, by virtue of their dependence from claim 12, which is unanticipated for the reasons set forth above.

The Examiner also rejected claim 20 under 35 U.S.C. §103(a) as being unpatentable over *Mauldin* in view of U.S. Pat. Pub. No. 2002/017787 to *Michelson* ("*Michelson*"). In response, Applicants assert that claim 20 is patentable over *Mauldin* in view of *Michelson*, *inter alia*, by virtue of its dependence from claim 12, which is patentable for the reasons set forth above.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' agent at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 31, 2007

Respectfully submitted,

By 

William A. Di Bianca

Registration No.: 58,653

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Agent for Applicants